

REMARKS

Summary of the Amendment

Upon entry of the above amendment, claims 14, 17, 19 and 28-30 will have been amended. Accordingly, claims 14-17, 19, 20 and 21-30 will be pending, with claims 14, 17, 19 and 28-30 being in independent form.

Summary of the Official Action

In the Office action, the Examiner objected to the Amendment filed on October 14, 2005. The Examiner also rejected claims 17, 22, 24, 25 and 29 as failing to comply with the written description requirement. The Examiner additionally also rejected claims 14-17 and 19-30 as being indefinite. The Examiner also rejected claims 17, 19, 20, 22-27, 29 and 30 over the applied art of record. The Examiner indicated, however, that claims 14-16, 21 and 28 contain allowable subject matter and would be allowable if amended to overcome the indefiniteness rejection. By the present amendment and remarks, Applicant submits that the objections and rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Interview of April 18, 2006

Applicant appreciates the courtesy extended by Examiner Keenan in the interview of April 18, 2006. In that interview, Applicant's representative discussed, among other things, that the objection to the Amendment filed on October 14, 2005 is improper because paragraph [0046] of the specification provides support for one or more of the swivel arms

being longitudinally adjustable. The Examiner agreed to reconsider the objection and the Section 112, 1st paragraph rejection, but requested that Applicant explain how the originally filed disclosure of the parent provides support for the swivel arms of Fig. 6 having the recited longitudinal adjustability. Applicant's representative agreed to provide such support in the response. Applicant's representative agreed to amend claims 17 and 29 to clarify that at last two of the swivel arms can be longitudinally adjustable.

Applicant's representative also discussed, among other things, that the Section 112, 2nd paragraph rejection was improper because there is no requirement to recite in the claims all of the features required to have a "complete and operative device". Applicant's representative agreed, however, to amend the claims to clarify that more than one movable connection piece and more than one connecting bridges are utilized. The Examiner agreed to reconsider the Section 112, 2nd paragraph rejection, in view of such claim amendments.

Applicant's representative also pointed out that the prior art rejection was improper because none of the applied documents disclose or suggest the combination of features recited in at least 17, 19, 29 and 30. The Examiner responded by indicating that he would reconsider the rejection in view of such arguments upon the filing of Applicant's response with the claim amendments made to overcome the formal rejections.

Objection to the Amendment filed on October 14, 2005 is Improper

Applicant submits that the Examiner's objection to the Amendment filed on October 14, 2005 is improper.

The Examiner asserts that the new drawing sheet showing new Fig. 8 and the description of new Fig. 8 added to the specification is improper because it introduces new matter into the disclosure.

Applicant respectfully disagrees. New Fig. 8 schematically shows an adjustability of the swivel arms using a telescoping arrangement. Moreover, the specification clearly indicates that the swivel arms can be made longitudinally adjustable by e.g., partial telescopic motion (see paragraph [0046]). Additionally, paragraph [0052] of the specification explains that the swivel arms can be made of pipe with various cross-sectional shapes. Furthermore, arms with such telescopic motion are conventionally known, and no additional illustration is necessary or required.

Additionally, in response to the Examiner's request in the Interview of April 18, 2006 that Applicant explain how the originally filed disclosure of the parent provides support for the swivel arms of Fig. 6 having the recited longitudinal adjustability, Applicant notes that original claims 12 and 20 of parent application 09/464,445 provides support one or more of the swivel arms of the claimed swivel device having the recited longitudinal adjustability. Applicant reminds the Examiner that claim 12 of the parent application 09/464,445 was generic to each of the disclosed embodiments.

In view of the above, Applicant requests that the Examiner reconsider and withdraw the objection to the Amendment filed on October 14, 2005 and indicate that the drawings and the specification are acceptable under current USPTO Rules.

The Written Description Rejection is Improper

Claims 17, 22, 24, 25 and 29 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

The Examiner asserts that the specification does not provide support for one or more of the swivel arms being longitudinally adjustable and how this can occur.

Applicant respectfully disagrees. As explained in the Interview, paragraphs [0024] and [0046] of the specification clearly states that at least one swivel arm can include a longitudinally adjustable lifting arm. Such language provides clear support for one or more of the arms being longitudinally adjustable.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the rejection of these claims under 35 U.S.C. § 112, first paragraph.

The Indefiniteness Rejection, in Moot

Claims 14-17 and 19-30 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite on the basis of various asserted informalities.

By this Amendment, Applicant respectfully submits that the claims have been amended in a manner which overcomes this basis of rejection.

While Applicant believes that the claims are sufficiently clear to one of ordinary skill in the art, Applicant has, in an effort to advance prosecution, amended the claims in a manner which is believed to fully consider and address the Examiner comments and concerns.

The claims find clear support in, e.g., the embodiment shown in Fig. 6.

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Applicant also notes that the horizontal adjustability of one or more of the arms is not indefinite and is fully explained on paragraphs [0024] and [0046] of the instant specification.

Finally, Applicant notes that Fig. 6 clearly shows the bent or curved section of the arms 40, 41, 42 and 43, and that the claims are entirely clear and consistent with the disclosure, and not indefinite.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the rejection of these claims under 35 U.S.C. § 112, second paragraph.

Traversal of Rejections Under 35 U.S.C. § 103(a)

Over Thatcher with Zatylny

Applicant respectfully traverses the rejection of claims 17, 22, 24, 25 and 29 under 35 U.S.C. § 103(a) as unpatentable over US patent 3,276,610 to THATCHER in view of US patent 4,687,402 to ZATYLNy.

The Examiner acknowledged that THATCHER lacks, among other things, the features recited in the above-noted claims such as the recited longitudinally adjustable swivel arms. However, the Examiner asserted that this feature is taught in ZATYLNy and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully traverses this rejection.

Notwithstanding the Examiner's assertions as to what each of THATCHER and ZATYLNy discloses or suggests, Applicant submits that no proper combination of these documents discloses or suggests, inter alia, swivel arms being located on both sides of the

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open cargo bed, connecting bridges arranged to couple said swivel arms to form swivel yokes, movable connection pieces, two swivel axes of said swivel device being adapted to be located between the rear wall and the wheel wells, said two swivel axes located one behind the other in a longitudinal direction of said pick-up vehicle and at a same height relative to said cargo bed, wherein said swivel arms are swivelably coupled around said two swivel axes, and wherein the swivel arms are coupled together through said movable connection pieces, thereby forming a parallelogram swivel arm structure on each side of the open cargo bed, wherein at least two of said swivel arms each comprises a longitudinally adjustable lifting arm, as recited in independent claim 17, and, inter alia, swivel arms being located on both sides of the open cargo bed, connecting bridges arranged to couple said swivel arms to form swivel yokes, movable connection pieces, two swivel axes of said swivel device being adapted to be located between the rear wall and the wheel wells, and said two swivel axes located one behind the other in a longitudinal direction of said pick-up vehicle and at a different height relative to said cargo bed, wherein said swivel arms are swivelably coupled around said two swivel axes, and wherein the swivel arms are coupled together through said movable connection pieces, thereby forming a parallelogram swivel arm structure on each side of the open cargo bed, wherein at least two of said swivel arms each comprises a longitudinally adjustable lifting arm, as recited in independent claim 29.

Applicant acknowledges that THATCHER arguably discloses an arrangement with movably mounted swivel arms 26 and 80 which are connected to each other with two movable connection pieces (see Fig. 1). However, it is clear from Fig. 1 that the device

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disclosed in THATCHER does not disclose or suggest any connecting bridge between arms 80. THATCHER also does not disclose or suggest that at least two of said swivel arms each comprises a longitudinally adjustable lifting arm. Indeed, the Examiner has acknowledged as much.

ZATYLNLY does not cure the above-noted deficiencies of THATCHER. While Applicant acknowledges that ZATYLNLY arguably discloses an arrangement with movably mounted swivel arms 25/30 which are longitudinally adjustable (see Figs. 1 and 2), it is clear from the figures that the device disclosed in ZATYLNLY only discloses one set of swivel arms. Furthermore, no connecting bridge is utilized to connect arms 25/30 (see space between plates 33 of Fig. 2). Finally, Applicant submits that ZATYLNLY does not disclose or suggest the connecting together of swivel arms with movable connection pieces.

Thus, Applicant submits that the above-noted documents fail to disclose or suggest the features recited in at least independent claims 17 and 29. Because no proper combination of the above-noted documents discloses or suggests at least the above-noted features of the instant invention, Applicant submits that no proper modification of these documents can render unpatentable the combination of features recited in at least independent claims 17 and 29.

Furthermore, Applicant submits that there is no motivation or rationale disclosed or suggested in the art to modify any of the applied documents in the manner asserted by the Examiner. Nor does the Examiner's opinion provide a proper basis for these features or for the motivation to modify these documents, in the manner suggested by the Examiner.

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Therefore, Applicant submits that the invention as recited in at least independent claims 17 and 29 is not rendered obvious by any reasonable inspection of these documents.

Additionally, Applicant submits that dependent claims 22, 24 and 25 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper combination of THATCHER and ZATYLNLY discloses or suggests, in combination: that said swivel device further comprising an hydraulic, electric, pneumatic, or hand-activated drive for swiveling of the swivel yokes as recited in claim 22; that the device further comprises a support bracket adapted to lie on the open cargo bed and to provide said two swivel axes as recited in claim 24; and that said two swivel axes are located about a portion of a chassis of the pick-up vehicle as recited in claim 25.

Applicant requests that the Examiner reconsider and withdraw the rejection of the above-noted claims under 35 U.S.C. § 103(a).

Over Thatcher with Olson

Applicant respectfully traverses the rejection of claims 19, 20, 23, 26, 27 and 30 under 35 U.S.C. § 103(a) as unpatentable over THATCHER in view of US patent 2,689,053 to OLSON.

The Examiner acknowledged that THATCHER lacks, among other things, the features recited in the above-noted claims such as the bent or curved section of the swivel arms. However, the Examiner asserted that this feature is taught in OLSON and that it

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would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully traverses this rejection.

Notwithstanding the Examiner's assertions as to what each of THATCHER and OLSON discloses or suggests, Applicant submits that no proper combination of these documents discloses or suggests, inter alia, swivel arms being located on both sides of the open cargo bed, connecting bridges arranged to couple said swivel arms to form swivel yokes, movable connection pieces, two swivel axes of said swivel device being adapted to be located between the rear wall and the wheel wells, said two swivel axes located one behind the other in a longitudinal direction of said pick-up vehicle and at a same height relative to said cargo bed, wherein said swivel arms are swivelably coupled around said two swivel axes, and wherein the swivel arms are coupled together through said movable connection pieces, thereby forming a parallelogram swivel arm structure on each side of the open cargo bed, and each swivel arm comprising one of a curved section along its length and a bent section along its length, wherein each swivel arm comprises a straight section, and said one of a curved and bent section is formed by one of said movable connection pieces, as recited in independent claim 19, and, inter alia, swivel arms being located on both sides of the open cargo bed, connecting bridges arranged to couple said swivel arms to form swivel yokes, movable connection pieces, two swivel axes of said swivel device being adapted to be located between the rear wall and the wheel wells, said two swivel axes located one behind the other in a longitudinal direction of said pick-up vehicle and at a different height relative to said cargo bed, wherein said swivel arms are swivelably coupled around said two swivel axes, and wherein the swivel arms are coupled

together through said movable connection pieces, thereby forming a parallelogram swivel arm structure on each side of the open cargo bed, and each swivel arm comprising one of a curved section along its length and a bent section along its length, wherein each swivel arm comprises a straight section, and said one of a curved and bent section is formed by one of said movable connection pieces, as recited in independent claim 30.

As explained above, While THATCHER arguably discloses an arrangement with movably mounted swivel arms 26 and 80 which are connected to each other with two movable connection pieces (see Fig. 1), it is clear from Fig. 1 that the device disclosed in THATCHER also does not disclose or suggest any connecting bridges between arms 80. Finally, THATCHER clearly does not disclose or suggest that the two swivel axes of said swivel device are adapted to be located between the rear wall and the wheel wells.

OLSON does not cure the above-noted deficiencies of THATCHER. While Applicant acknowledges that OLSON arguably discloses an arrangement with movably mounted swivel arms 18 which are connected with a connecting bridge 25 (see Fig. 1), it is clear from the figures that the device disclosed in OLSON only discloses one set of swivel arms 18. OLSON, like THATCHER, also does not disclose or suggest that two swivel axes of said swivel device are adapted to be located between the rear wall and the wheel wells. Finally, Applicant submits that OLSON does not disclose or suggest any connection pieces much less, movably mounted swivel arms which are connected to each other with movable connection pieces.

Thus, Applicant submits that the above-noted documents fail to disclose or suggest

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the features recited in at least independent claims 19 and 30. Because no proper combination of the above-noted documents discloses or suggests at least the above-noted features of the instant invention, Applicant submits that no proper modification of these documents can render unpatentable the combination of features recited in at least independent claims 19 and 30.

Furthermore, Applicant submits that there is no motivation or rationale disclosed or suggested in the art to modify any of the applied documents in the manner asserted by the Examiner. Nor does the Examiner's opinion provide a proper basis for these features or for the motivation to modify these documents, in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claims 19 and 30 is not rendered obvious by any reasonable inspection of these documents.

Additionally, Applicant submits that dependent claims 20, 23, 26 and 27 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper combination of THATCHER and OLSON discloses or suggests, in combination: that each swivel arm comprises a straight section along its length as recited in claim 20; that said swivel device further comprises an hydraulic, electric, pneumatic, or hand-activated drive for swiveling of the swivel yokes as recited in claim 23; that the device further comprises a support bracket adapted to lie on the open cargo bed and to provide said two swivel axes as recited in claim 26; and that said two swivel axes are located about a portion of a chassis of the pick-up vehicle as

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recited in claim 27.

Applicant requests that the Examiner reconsider and withdraw the rejection of the above-noted claims under 35 U.S.C. § 103(a).

Allowable Subject matter

Applicant appreciates the Examiner's indicating that claims 14-16, 21 and 28 contain allowable subject matter. Furthermore, because each of the formal rejections have been addressed, Applicant submits that at least pending claims 14-16, 21 and 28 should be indicated as being allowed.

CONCLUSION

Applicant respectfully submits that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 112, 102 and 103 and respectfully requests the Examiner to indicate allowance of each and every pending claim of the present invention.

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicant's invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

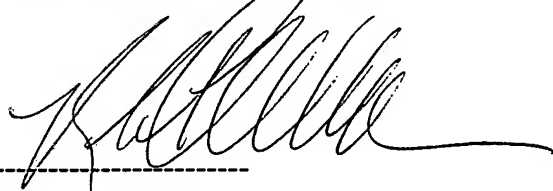
Further, any amendments to the claims which have been made in this response and

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which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Commissioner is hereby authorized to charge any fees necessary for consideration of this amendment to deposit account No. 19-0089.

Respectfully submitted,
Frank Markus RINDERKNECHT

A handwritten signature in black ink, appearing to read 'Neil F. Greenblum', written over a horizontal dashed line.

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